

COMPREHENSIVE ELECTRICITY COMPETITION PLAN

Benefits of the Plan

The Comprehensive Electricity Competition Plan embodies the overall agenda of the Clinton Administration to expand the economy and improve the environment. A more competitive electricity industry will provide immense benefits to individual American consumers and will be a boon to our economy. It will result in lower prices, a cleaner environment, encourage innovation and new services, increase the reliability of our nation's power supply grid, and save the government money.

- **\$20 Billion in Savings**

The Department of Energy estimates that retail competition will save consumers \$20 billion a year on their electricity bills. The typical family of four could save \$232 per year. Direct savings on their electricity bill will be \$104 per year. Indirect savings, which would arise from the lower costs of other goods and services in a competitive market, will be \$128 per year for a typical family of four.

Federal, State and local governments will also benefit from lower electricity prices. Total government spending on electricity was \$18 billion in 1995. With competition, these costs are likely to decline by at least 10%, a savings of close to \$2 billion per year. This restructuring dividend will help governments maintain balanced budgets into the future while meeting critical needs.

- **Improves Environment**

Restructuring will also produce significant environmental benefits through both market mechanisms and policies that promote investment in energy efficiency and renewable energy. For example, we estimate that our Competition Plan will reduce greenhouse gas emissions by 25 to 40 million metric tons in 2010. Competitive forces will create a more efficient, leaner and cleaner industry. A generator that wrings as much energy as it can from every unit of fuel will be rewarded by the market. Today, a monopoly supplier generally recovers its costs regardless of whether it uses its power resources efficiently. Competition also provides opportunities for consumers to vote with their wallets for green power and facilitates the marketing of energy efficiency services along with electricity.

Restructuring also makes possible the introduction of new policy mechanisms such as the renewable portfolio standard and enhanced public benefit funding which will guarantee substantial environmental benefits from competition notwithstanding market outcomes. We believe that the environmental benefits of market forces and these policies will outweigh any negative environmental impacts associated with the demand increasing effects of lower prices.

- **Brings New Products and Services**

Restructuring will also spark innovation in the American economy, creating new industries, jobs, products and services just as telecommunications reform spawned cellular phones and other new technologies. This will further strengthen our nation's position as the most vibrant and dynamic economy in the world.

- **Strengthens Reliable Service**

The electricity utility industry, through a tradition of voluntary self-regulation and cooperation, has performed admirably in maintaining reliability over the past thirty years. However, in a highly competitive market environment, a different mix of incentives will be at work. Through federal legislation, we need to establish a framework that will build upon and maintain the industry's tradition of self-regulation, but require all participants in physical electric transactions on the grid to comply with mandatory reliability standards.

- **Protects Consumers**

Under the traditional monopoly structure, consumers have no ability to choose suppliers so there is generally no need for information comparing the price and environmental qualities of different electricity generators. In competitive markets, many different suppliers will offer a diverse menu of energy products and services with differing pricing and billing options. To address this need, the Administration recommends that electricity suppliers be required to disclose on a uniform label information on price, terms and conditions of service sufficient to enable customers to make adequate comparisons among various offers.

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COMPREHENSIVE ELECTRICITY COMPETITION PLAN

Need for Federal Action

We respect the actions of those States which are in the process of implementing retail competition, and seek to build on, rather than disrupt, those efforts. Nevertheless, effective retail competition cannot happen without federal legislation. First, based on the laws of physics, electrons do not respect State borders. Accordingly, as States remove the constraints of monopoly franchise territories, electricity markets will naturally become more regionalized. Only federal legislation can adequately address the needs of these regional markets.

The electric industry is also hampered by statutes which inhibit the development of competitive markets. The entire federal electricity law framework dates from the New Deal and is premised upon State-regulated monopolies rather than regional competitive markets. Federal law must be updated so that it stimulates, rather than stifles, competition.

Finally, the States alone cannot obtain the full economic and environmental benefits of competition for American consumers. Without comprehensive Federal electricity restructuring legislation, neither State nor federal regulators will have the necessary tools to ensure that regional electricity markets are truly competitive and operate as efficiently as possible. Moreover, there will be no assurances that support for renewable technologies and other important public purpose programs will continue absent a federal program. Without such tools, electricity prices will likely be higher and the environmental gains which we expect under the Administration's plan will not be fully realized.

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COMPREHENSIVE ELECTRICITY COMPETITION PLAN
Retail Competition Policy - Flexible Mandate

Proposal: Support customer choice through a flexible mandate that would require each utility to permit all of its retail customers to purchase power from the supplier of their choice by January 1, 2003, but would permit States or non-regulated utilities to opt out of the competition mandate if they find, on the basis of a public proceeding, that consumers in the State would be better served by an alternative policy such as a State-crafted retail competition plan or the current monopoly system.

Ten states have enacted legislation implementing retail competition. Nevertheless, in most of the country, electric utilities remain monopolies. We anticipate that most States will recognize the benefits of retail competition and will implement competition on their own initiative. Nevertheless, the policy of the Administration is to encourage all States to consider the benefits of retail competition and to move towards timely implementation.

Federal legislation with a flexible retail competition mandate is the best means to obtain the economic benefits of competition while ensuring that States have the opportunity to tailor their utility systems to meet their unique needs. This approach strikes the proper balance between the need for federal policy to support competition and the tradition of State determination of retail electricity policy.

The flexible mandate avoids the constitutional questions that have arisen concerning other retail choice proposals, because it does not require that States administer a Federal law. Instead, States have the ability to opt out of retail competition. See Printz v. United States, 117 S.Ct. 2365 (1997).

The flexible mandate also addresses the concerns of some low-cost States that a one-size-fits-all approach to retail competition could lead to increased costs in their States. Finally, the flexible mandate builds on State restructuring plans that have been enacted to date, rather than disrupting them.

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COMPREHENSIVE ELECTRICITY COMPETITION PLAN

Stranded Cost Principle

Proposal: The Administration endorses the principle that utilities should be able to recover prudently incurred, legitimate and verifiable retail stranded costs that cannot be reasonably mitigated. States would continue to determine recovery of investments, including stranded cost recovery, under State law.

Many industry observers expect that lower prices resulting from the pressure of competition will eliminate or sharply reduce the ability of some utilities to recover their investments. The inability to recover such investments results in “stranded costs.” Put simply, the implementation of a stranded cost policy requires a determination of who is responsible for paying the difference between the cost of production from power plants that were built when costs were high and today’s lower prices -- utility shareholders, ratepayers, or both. These are not “new” costs. Customers are paying them today. However, they must be addressed as part of the transition to competition. If we don’t, numerous utilities could be bankrupted.

The Administration endorses the principle that utilities should be able to recover prudently incurred, legitimate, and verifiable retail stranded costs arising from the transition to retail competition, if such costs cannot reasonably be mitigated. In our view, federal policy should encourage states to provide for recovery of stranded costs because resolution of this issue is one of the key stumbling blocks which must be surmounted in order to provide choice to consumers. At the same time, the fundamental authority of States to address this difficult issue should be preserved.

Recovery of investment in generating capacity has traditionally been overseen or regulated by State public utility commissions. In fact, thus far, all States that plan to implement retail competition have provided for utility stranded cost recovery in some manner. Under the Administration’s proposal, States would continue to determine recovery of investments, including stranded cost recovery, under State law.

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COMPREHENSIVE ELECTRICITY COMPETITION PLAN

Consumer Information

Proposal: The Secretary of Energy would be authorized to conduct a rulemaking to require all suppliers of electricity to disclose information on price, terms, and conditions of their offerings; the type of generation source; and generation emissions characteristics.

Under the traditional monopoly structure, electricity consumers have no ability to choose suppliers so there is generally no need for information comparing the price and environmental qualities of different electricity generators. In competitive markets, many different suppliers will offer a diverse menu of energy products and services with different pricing and billing options. Consequently, consumers will need reliable information so they can compare the products and prices offered by suppliers. To address this need, the Administration recommends that electricity suppliers be required to disclose on a uniform label information on price, terms and conditions of service sufficient to enable customers to make adequate comparisons among various offers.

In addition to helping consumers get the best price possible on electricity, this labeling system will also facilitate the development of a vigorous market for environmentally beneficial electricity resources such as power generated by renewable technologies or natural gas. Customers interested in purchasing electricity produced using renewable resources or other clean power sources will need assurances that seller's representations are true. Participants in State pilot programs have frequently tried to differentiate their products by advertising them as "green." Some of their claims have been misleading, if not fraudulent.

A number of States considering the implementation of retail competition are also exploring the need for consumer disclosure requirements. In fact, the National Association of Regulatory Utility Commissioners passed a resolution in November, 1996, supporting initiatives to require consumer disclosure. While the Administration encourages States to pursue such efforts, we nevertheless believe that, given the current movement toward regional markets, disclosure labels within and between regions must be uniform. Absent uniform disclosure labels, it will be more difficult for consumers to effectively compare products offered by many suppliers from many different parts of the country. Moreover, uniformity in disclosure requirements will better enable the relevant governmental agencies to verify the claims made by suppliers.

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COMPREHENSIVE ELECTRICITY COMPETITION PLAN

Strengthen Electric System Reliability

Proposal: The Federal Power Act should be amended to require FERC to approve the formation of and oversee a private self-regulatory organization that prescribes and enforces mandatory reliability standards.

Reliability and competition can -- and must-- go hand in hand. The electric utility industry, through a tradition of voluntary self-regulation and cooperation, has performed admirably in maintaining reliability over the past thirty years. However, even in the absence of retail competition, under wholesale competition a different mix of incentives is presently at work. There are pressures to cut costs and to drive the power grids harder, to squeeze as much economic value out of them as possible without causing a system breakdown. Furthermore, it is difficult for transmission owners to resist the temptation to unfairly advance their power sales business under the guise of reliability concerns.

To ensure reliability in the competitive marketplace, the Administration supports a framework that will build upon and maintain the industry's expertise and tradition of self-regulation, but also establish mandatory reliability rules of the road. The Federal Energy Regulatory Commission (FERC) must be provided clear authority to approve and oversee a self-regulating reliability organization that will prescribe and enforce mandatory electric reliability standards. Federal oversight is essential to provide legal support for a private self-regulating structure.

Under this approach, FERC will be given the authority to review all mandatory reliability standards developed by the self-regulating organization to ensure that they are in the public interest and reflect an appropriate level of reliability. FERC's review of such standards will also give recognition to the technical expertise of the self-regulating organization. Membership in the self-regulating system will be open to all entities that use the bulk-power system and should be required for all entities whose behavior is critical to system reliability. Under the oversight of FERC, the private self-regulating organization system will monitor compliance with the reliability standards and, when necessary, enforce compliance with the standards.

The Department of Energy's Task Force on Electric System Reliability, an independent advisory body chaired by Dr. Philip Sharp, the former Chair of the U.S. House of Representatives Energy and Power Subcommittee, has submitted findings and recommendations to DOE regarding an appropriate reliability framework. These recommendations serve as the foundation for our proposal.

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COMPREHENSIVE ELECTRICITY COMPETITION PLAN

Renewable Portfolio Standard

Proposal: Adopt a federal Renewable Portfolio Standard (RPS) to guarantee that a minimum level of additional renewable generation is developed in the United States. The RPS would require electricity sellers to cover 5.5% of their electricity sales with generation from non-hydroelectric renewable technologies such as wind, solar, biomass or geothermal generation by the year 2010. the RPS should be subject to a cost cap.

Retail competition itself has the potential to significantly increase renewable energy's share of the electricity market, because it will allow environmentally-conscious consumers to support green energy technologies with their wallets. Nonetheless, the inherent uncertainty of the transition to competition and the recognition of important environmental and energy diversification benefits from renewables dictates that the future of renewable electricity be secured through a Renewable Portfolio Standard. The RPS would require all electricity sellers to cover a percentage of their electricity sales with generation from non-hydroelectric renewable sources such as wind, solar, biomass or geothermal energy.

Retail sellers could meet the proposed RPS requirement by generating sufficient renewable electricity to meet the RPS requirement or by purchasing tradeable renewable electricity credits that would be created and tracked for each unit of RPS-eligible renewable electricity produced or by some combination of these strategies. This flexible, market-based approach will assure that we achieve our renewable energy goals in as cost-effective as possible.

The Administration proposes that the RPS requirement be initially set close to the ratio of RPS-eligible generation to retail electricity sales projected under baseline conditions. There would be an intermediate increase in RPS requirement in 2005, followed by an increase to 5.5% in 2010. The RPS would expire in 2015, when the economics and benefits of renewable technologies are expected to be firmly established. In addition, our proposal provides for a cost cap to hold program costs below a pre-specified ceiling.

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COMPREHENSIVE ELECTRICITY COMPETITION PLAN

Public Benefit Fund

Proposal: Create a \$3 billion public benefit fund to provide matching funds to States for low-income assistance, energy efficiency programs, consumer education and the development and demonstration of emerging technologies, particularly renewables.

The Administration supports the creation of a \$3 billion public benefit fund (PBF) to provide matching funds to States for low-income assistance, energy efficiency programs, consumer education and the development and demonstration of emerging technologies, particularly renewables. There is a strong national interest in assuring that these important public purposes continue to be supported in a competitive electric marketplace.

The PBF would be funded through a generation or transmission fee on all electricity, capped at 1/10 of one cent (1 mill) per kilowatt-hour. It would be overseen by a Joint Board composed of Federal and State officials who would set standards for fund eligibility. States would have the flexibility to decide whether to seek funds and how to allocate funds among public purposes.

The introduction of competition itself will provide substantial economic and environmental benefits. Nevertheless, if not properly implemented, retail competition could lead to reduced support for certain electricity-related programs that serve important public purposes. Under cost-of-service regulation, programs supporting and promoting renewable generation, energy efficiency, low-income assistance, and other public purposes are supported in part through utility rate structures, and utilities recovered the costs of such programs in the rates they charge their captive customers. Under a competitive system, local utilities will not be able to include the cost of such programs in the price they charge for electricity if they are not included in the costs of their competitors.

A number of States that plan to open their electricity markets to retail competition are already planning to address this problem by recovering the costs of certain public benefit programs through a non-bypassable distribution fee on all electricity customers. A federal PBF will both encourage and support the creation of these programs at the State level. It also can be structured to give States the flexibility to allocate public benefit funding in a way that is tailored to unique State or local needs.

The PBF will not increase electricity rates because consumers pay these costs today through the rates they pay their local utility. The proposed matching fund amount of \$3 billion will encourage States to preserve the current level of utility-funded support for public purpose programs, estimated at about \$6 billion in 1996.

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COMPREHENSIVE ELECTRICITY COMPETITION PLAN

Air Quality

The Administration believes that retail competition will deliver economic savings, cleaner air and a down-payment on greenhouse gas emissions reductions. We estimate that our Competition Plan will reduce greenhouse gas emissions by 25 to 40 million metric tons by the year 2010.

Our plan includes a Public Benefits Fund of up to \$3 billion annually (1.0 mill/kWh,) to match state commitments for financing energy efficiency, renewable energy, and other public benefit programs; "green labeling" provisions to help consumers identify and choose power from environmentally friendly generators; a Renewable Portfolio Standard, to require that at least 5.5 percent of electricity sales be generated from non-hydroelectric renewable sources, subject to a cost cap; a net metering provision encouraging the installation of small renewable systems; and trading authority for NOx emissions, to facilitate cost-effective, market-driven NOX reductions.

In addition, we expect that retail competition will strengthen incentives to improve efficiency, and reduce the two-thirds waste of energy currently associated with fossil-fuel generation of electricity -- thereby further cutting greenhouse gas emissions, saving money, reducing pollution, and conserving fuel.

We believe these provisions will produce cleaner air and reduced greenhouse gas reductions, although the precise impacts are difficult to predict. We intend to work with the Congress to ensure that any unanticipated consequences are addressed quickly and in keeping with the Administration's climate change policies.

Therefore, those making investment decisions through the period of restructuring should recognize the Administration's strong commitment to reducing greenhouse gas emissions on the timetable set out in the President's climate change policy. We are not asking this Congress for carbon cap-and-trade authority as part of the Administration's electricity restructuring proposal. The Administration's climate change policy calls for cap-and-trade authority to be in place by 2008, and the Administration will consider in consultation with Congress whatever legislative vehicle is most appropriate for this purpose.

In the meanwhile, the Administration will seek to ensure that we have accurate, accessible data on the progress toward cleaner air and carbon dioxide reduction. Under current law, the utility industry reports various types of emissions. The Administration intends to ensure that the relevant Federal agencies coordinate the data received on emissions from the utility sector and then provide such data in annual reports to the President.

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